

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		ER	19/06/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO	N/a	N/A
Team Leader authorisation / sign off:		ML	20/06/2024
Assistant Planner final checks and despatch:		ER	21/06/2024

Application: 24/00554/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr Andy Horwood - Tesco

Address: Co-op Triangle Shopping Centre Triangle Shopping Centre Rochford Way

Development: Planning Application - Proposal to install new floor mounted 3x condensing units, DT01 Refrigeration pack, 1.1m high Armco barrier for protection, and DT01 Gas Cooler.

1. Town / Parish Council

FRINTON AND WALTON TOWN COUNCIL Recommend approval subject to adequate sound attenuation.

2. Consultation Responses

Environmental Protection 15.05.2024 Noise Impact Assessment: We have reviewed the submitted NIA, dated 6th March 2024, and can advise we are satisfied with its methodology and as such have no adverse comments to make.

Construction Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following hours and actions be adhered to, should the application be approved;

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

- No materials produced as a result of the site development or clearance shall be burned on site.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

REASON: to protect the amenity of nearby residential premises.

3. Planning History

00/01216/FUL Installation of 1.0 m diameter satellite Approved 15.08.2000

	antenna wall mounted on side elevation		
98/01542/ADV	2 illuminated signs	Approved	22.12.1998
99/00934/ADV	ATM surround sign and ATM projecting sign	Approved	11.08.1999
99/00935/FUL	Installation of automated teller machine (ATM)	Approved	11.08.1999
04/00942/FUL	Erection of perimeter fence	Approved	30.06.2004
08/00852/FUL	Provision of new access to an existing Co-Op store for deliveries from Elm Tree Avenue to provide a one way system for deliveries.	Approved	14.08.2008
14/00042/ADV	Installation of new illuminated signage.	Approved	19.03.2014
17/00732/ADV	Proposed 3 no. fascia signs - high level, non-illuminated secondary brand wall signs.	Approved	23.06.2017
21/00374/ADV	Installation of aluminium fascia sign to high level, dibond flat panel at low level, aluminium fascia sign to corner, vinyl print to window, fabric banner sign to fencing x 2, vinyl prints to trolley park shelters x 3 and aluminium fascia sign above sloping roof	Approved	11.05.2021
24/00228/ADV	Application for Advertisement Consent - Proposal to install 7no. fascia signs, 2no. dibond signs and 2no. vinyl signs.	Approved	26.03.2024
24/00554/FUL	Planning Application - Proposal to install new floor mounted 3x condensing units, DT01 Refrigeration pack, 1.1m high Armco barrier for protection, and DT01 Gas Cooler.	Current	

4. **Status of the Local Plan**

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Local Plan 2013-33 and Beyond (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any Neighbourhood Plans that have been made and the Minerals and Waste Local Plans adopted by Essex County Council.

5. **Neighbourhood Plans**

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

There are no neighbourhood plans in place for this location.

6. **Relevant Policies / Government Guidance**

NATIONAL:

National Planning Policy Framework 2023 (NPPF)

National Planning Practice Guidance (NPPG)

LOCAL:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021):

SP1 Presumption in Favour of Sustainable Development

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022):

SPL1 Managing Growth

SPL3 Sustainable Design

7. **Officer Appraisal (including Site Description and Proposal)**

Application Site

The application site comprises of a commercial unit sited within the Triangle Shopping Centre in Frinton on Sea. The primary access is located within the shopping centre with various commercial units surrounding it. The application building has prominent elevations which face onto Elm Tree Avenue.

Proposal

This planning application seeks planning permission for installation of new floor mounted 3x condensing units, DT01 Refrigeration pack, 1.1m high Armco barrier for protection, and DT01 Gas Cooler.

Assesment

Visual Impact

Paragraph 135 of the NPPF (2023) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place. Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs.

The proposal will result in the installation of 3x ground floor mounted condensing units to the front elevation (facing Elm Tree Avenue) and the installation of a new refrigeration pack with 1.1m high barrier protection and a new gas cooler to the side elevation.

The proposed additions will be sited within proximity to the elevations which serve Elm Tree Avenue. The building currently benefits from metal fencing around part of the shop's walls which will offer screening of the proposed new machinery, thereby preventing much of it from appearing prominent in street scene views. It is also noted that the new equipment will be significantly set back from the boundary of the site also reducing its visual impact.

As the customers obtain their access to the shop within the Triangle Shopping Centre these new elements will not be visible to them.

The proposal is therefore considered a suitable addition to the existing building which would not result in an adverse impact to its character/ appearance and that of the streetscene.

Impact to Neighbours

Paragraph 135 of the National Planning Policy Framework (2023) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well being, with a high standard of amenity for existing and future users.

Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The proposed equipment is sited away from shared boundaries and largely screened by existing boundary fencing preventing them from resulting in a significant loss of amenities.

The application documents include a Noise Assessment which has been sent to the Environmental Protection Team for their assessment. They have confirmed that they have no objections to the proposal and have recommended the following conditions.

Suggested Condition 1 - Construction Hours.

Officer Response - As the site is located within the vicinity of a residential area this condition is considered necessary to reduce the impact onto neighbouring sites.

Suggested Condition 2 - No burning of Materials.

Officer Response - This condition is considered not relevant to this specific proposal and will not be applied to the planning permission.

Other Considerations

Frinton and Walton Town Council recommend approval subject to adequate sound attenuation.

Officer Response - A noise impact assessment has been submitted and is found to be acceptable following consultation with the Environmental Protection Team.

There have been no letters of representation received.

Conclusion

The proposal is therefore considered to be compliant with national and local policy as assessed in the above report. In the absence of material harm resulting from the proposed development the application is recommended for approval.

Habitats, Protected Species and Biodiversity Enhancement

Ecology and Biodiversity

General duty on all authorities

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and

habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined above. An informative has been imposed strongly encouraging the applicant to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Therefore, the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to conserve and enhance biodiversity interests.

Biodiversity net gain

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. This excludes applications for Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Development Certificates, householders, self builds, and other types of application which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats such as hedgerow).

The plant is going on existing hardstanding and, therefore, does not impact a priority habitat and impacts less than: 25 square metres (5m by 5m) of on-site habitat, 5 metres of on-site linear habitats such as hedgerows. This proposal is not therefore applicable for Biodiversity Net Gain.

Protected Species

In accordance with Natural England’s standing advice the proposed development site and surrounding habitat have been assessed for potential impacts on protected species. It is considered that the proposal is unlikely to adversely impact upon protected species or habitats.

Conclusion

In accordance with the overarching duty outlined above, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

8. Recommendation

Approval - Full

9. Conditions

1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later the expiration of three years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2 APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

02_5253_02F

02_5253_02G

03_5253_03F

AMENDED SITE PLAN - REC'D 07.05.24

NOISE IMPACT ASSESSMENT - REC'D 12/04/24

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

3 CONSTRUCTION HOURS

CONDITION: No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

REASON: To protect the amenity of nearby residents.

10. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Ecology Informative

In accordance with the Council's general duty to conserve and enhance biodiversity, you are strongly encouraged to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Suggested enhancements could include: <https://www.rhs.org.uk/wildlife/in-the-garden/encourage-wildlife-to-your-garden>

11. Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral